

1 MAXWELL M. FREEMAN, #31278  
2 LEE ROY PIERCE, JR., #119318  
3 MICHAEL L. GUREV, #163268  
4 THOMAS H. KEELING, #114979  
5 FREEMAN, D'AUTO, PIERCE,  
6 GUREV, KEELING & WOLF  
7 A PROFESSIONAL LAW CORPORATION  
8 1818 Grand Canal Boulevard, Suite 4  
9 Stockton, California 95207  
10 Telephone: (209) 474-1818  
11 Facsimile: (209) 474-1245  
12 E-mail: [lrpierce@freemanfirm.com](mailto:lrpierce@freemanfirm.com)  
13 [mgurev@freemanfirm.com](mailto:mgurev@freemanfirm.com)  
14 [tkeeling@freemanfirm.com](mailto:tkeeling@freemanfirm.com)

15 Attorneys for Defendants A.G. Spanos  
16 Construction, Inc.; A.G. Spanos  
17 Development, Inc.; A.G. Spanos  
18 Land Company, Inc.; A.G. Spanos  
19 Management, Inc., and The Spanos Corporation

20  
21 IN THE UNITED STATES DISTRICT COURT  
22  
23 FOR THE NORTHERN DISTRICT OF CALIFORNIA

24 National Fair Housing Alliance, Inc., et al.,	)	CASE NO. C07-03255-SBA
	)	
25 Plaintiffs,	)	NOTICE OF MOTION AND MOTION
	)	OF DEFENDANTS A.G. SPANOS
26 vs.	)	CONSTRUCTION, INC., A.G. SPANOS
	)	DEVELOPMENT, INC., A.G. SPANOS
27 A.G. Spanos Construction, Inc., et al.	)	LAND COMPANY, INC., A.G.
	)	SPANOS MANAGEMENT, INC. AND
28 Defendants.	)	THE SPANOS CORPORATION TO
	)	DISMISS PLAINTIFFS' FIRST
	)	AMENDED COMPLAINT

[Fed. R. Civ. P. 12(b)(6)]

Hearing Date: February 26, 2008  
Time: 1:00 p.m.  
Dept: Courtroom 3

Complaint Filed: June 20, 2007

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30  
31 **TO PLAINTIFFS AND THEIR ATTORNEY OF RECORD:**

32 **PLEASE TAKE NOTICE** that on February 26, 2008 at 1:00 p.m., or as soon  
33 thereafter as this matter may be heard, in Courtroom 3 of the above-entitled court, located at  
34 1301 Clay Street, 3<sup>rd</sup> Floor, Oakland, California, Defendants A.G. Spanos Construction, Inc.,

1 A.G. Spanos Development, Inc., A.G. Spanos Land Company, Inc., A.G. Spanos  
2 Management, Inc., and The Spanos Corporation ("Defendants") will and hereby do move this  
3 court, pursuant to rule 12(b)(6) of the Federal Rules of Civil Procedure, for an order  
4 dismissing the claims of Plaintiffs National Fair Housing Alliance, Inc., Fair Housing of  
5 Marin, Inc. Fair Housing Napa Valley, Inc., Metro Fair Housing Services, Inc., Fair Housing  
6 Continuum, Inc. ("Plaintiffs").

7 The basis of this Motion, as set forth more fully in the accompanying Memorandum of  
8 Points and Authorities, is that: (1) Plaintiffs' claim for relief under the Fair Housing  
9 Amendments Act, 42 U.S.C. §§ 3601, et. seq. ("FHAA") is barred by the statute of  
10 limitations as to all but eight of the eighty-five properties identified in the First Amended  
11 Complaint; (2) Plaintiffs have failed to allege facts sufficient to state a cause of action because  
12 they are not "aggrieved persons" within the meaning of the FHAA, they do not claim to  
13 belong to the protected class or to sue on behalf of members of the protected class, their  
14 damages, as alleged, were voluntarily incurred, and they have failed to name necessary and/or  
15 indispensable parties; (3) Plaintiffs fail to allege that the Spanos Defendants actually denied, or  
16 could deny, a rental to any member of the protected class; and (4) the First Amended  
17 Complaint fails to allege facts sufficient to establish plaintiffs' standing to sue.

18 This Motion will be based upon this Notice of Motion and Motion, the Memorandum of  
19 Points and Authorities in support of this Motion, the Request for Judicial Notice filed in  
20 support of this Motion, and the pleadings, orders, records and documents on file in this case,  
21 as well as such oral and documentary evidence as may be properly presented at the hearing on  
22 this Motion.

23 Opposition, if any, to the granting of the motion must be served and filed not less than  
24 twenty-one (21) days before the hearing date. If the party against whom the motion is directed

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1 does not oppose the motion, that party must file with the Court a Statement of Nonopposition  
2 within the time for filing and serving any opposition. (See L.R. 7-3(a) and 7-3(b).)

3 Dated: December 21, 2007

FREEMAN, D'AIUTO, PIERCE, GUREV,  
KEELING & WOLF

4  
5 By



THOMAS H. KEELING

6 Attorneys for Defendants A.G. Spanos  
7 Construction, Inc.; A.G. Spanos Development,  
8 Inc.; A.G. Spanos Land Company, Inc.; A.G.  
Spanos Management, Inc., and The Spanos  
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